

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1595

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-7-4-1210.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1210.5. (a) ADVISORY. As used in this section, ~~"town"~~ **"municipality"** refers to the most populous ~~town~~ **municipality** in the jurisdiction of the plan commission.

(b) ADVISORY. This section applies to a plan commission operating under a joinder agreement:

(1) in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790); and

(2) containing:

(A) a township having a population of more than eighteen thousand (18,000) but less than twenty-five thousand (25,000);

or

(B) a township having a population of more than nine thousand (9,000) but less than fifteen thousand (15,000).

(c) ADVISORY. Notwithstanding section 1210 of this chapter, a plan commission described in subsection (b) shall have nine (9) members as follows:

~~(1) Two (2) members of the town legislative body, to be appointed by the town executive for a one (1) year term.~~

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(2) Two (2) town residents who are not elected officials or town employees; to be appointed by the town executive for a four (4) year term.

(3) One (1) member of the township board; to be appointed by the township executive for a one (1) year term.

(4) Four (4) township residents who:

(A) are not residents of the town; and

(B) are not employees of the town or township;

to be appointed by the township executive with the approval of the township legislative body for a four (4) year term.

(1) Four (4) members who are residents of the municipality, to be appointed for four (4) year terms by the executive of the municipality.

(2) Three (3) members who are residents of the municipality, to be appointed for four (4) year terms by the legislative body of the municipality.

(3) Two (2) members who are residents of the township, to be appointed for four (4) year terms by the township executive with the approval of the township legislative body.

(d) The joinder agreement expires if the municipality annexes the entire area of a township described in subsection (b)(2).

(e) A joinder agreement under this section may be terminated if:

(1) the municipality adopts an ordinance terminating the joinder agreement;

(2) before adopting the ordinance under subdivision (1), the municipality conducts a public hearing on the issue of terminating the joinder agreement; and

(3) the executive of the municipality provides written notice to the township executive of the township subject to the joinder agreement that states the reason for the municipality's termination of the joinder agreement.

SECTION 2. IC 36-7-7.6-9, AS AMENDED BY P.L.169-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A majority of the commission members constitute a quorum.

(b) An action of the commission is official only if both the following apply:

(1) The action is authorized at a regular meeting or a properly called special meeting in which at least one (1) member from each county described in section 1 of this chapter is present.

(2) The action is authorized by:

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(A) the affirmative votes of a majority of the members of the commission; or

(B) a weighted affirmative vote of more than fifty (50) if a motion is made under subsection (c).

(c) ~~The weighted voting authorized under this chapter may not be used after June 30, 2007.~~ Upon a motion by any one (1) member of the commission that is properly seconded by another member at:

(1) a regular meeting; or

(2) a properly called special meeting;

the commission shall use the weighted voting process described in subsection (d).

(d) ~~Until June 30, 2007,~~ Each commission member has a weighted vote determined as follows:

(1) In the case of a member appointed by the executive of a municipality, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by one hundred (100).

(2) In the case of a member appointed by the executive of a county, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality and is not within a township described in section 4(a)(6) of this chapter as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR

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by fifty (50).

(3) In the case of a member appointed by a fiscal body, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality and is not within a township described in section 4(a)(6) of this chapter as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

(4) In the case of a member appointed by the trustee of a township under section 4(a)(6) of this chapter, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the township as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

SECTION 3. IC 36-7-7.6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The commission shall elect from among its members, by the affirmative votes of a majority of the members serving on the commission, an executive board that consists of the following:

(1) The four (4) officers of the commission.

(2) ~~One (1) member~~ **Two (2) members** of the commission from each county described in section 1 of this chapter.

(3) The member of the commission appointed by the governor.

(b) If a vacancy occurs in a position on the executive board referred to in subsection (a)(2), a successor shall be elected from among the

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members in the same manner as the member whose position has been vacated.

(c) The executive board shall conduct the business of the commission, except for:

- (1) the adoption and amendment of bylaws, rules, and procedures for the operation of the commission;
- (2) the election of officers and members of the executive board as provided in this chapter; and
- (3) the adoption of the annual appropriation budget after review by the executive board.

(d) The executive board shall meet regularly at least one (1) time each month, unless otherwise determined by its members. The executive board shall notify the full membership of the commission of all its meetings with copies of its preliminary or final agendas and shall report all its actions and determinations to the full membership of the commission.

(e) A majority of members of the executive board constitutes a quorum. An action of the executive board is official only if it is authorized by an affirmative vote of a majority of the total number of members serving on the board at a regular or properly called special meeting. Any action of the executive board shall be reviewed at the next regular meeting of the commission following the executive board's action. Upon either:

- (1) a decision by the majority of the board; or
- (2) written request of a member of the commission;

an issue shall be brought to a vote of the full commission.

(f) If the immediate past chairperson is not serving as a member of the executive board under subsection (a), that individual shall be a nonvoting member of the executive board.

SECTION 4. IC 36-7-7.6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. The commission may do any of the following in support of a purpose listed under section 12 of this chapter:

- (1) Transact business and enter into contracts.
- (2) Receive grants or appropriations from federal, state, or local governmental entities or from individuals or foundations and enter into agreements or contracts regarding the acceptance or use of those grants and appropriations to carry out any of the activities of the commission.
- (3) Apply for, receive, and disburse gifts, contributions, and grants of funds or in-kind services.
- (4) Acquire by grant, purchase, gift, devise, lease, or otherwise

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and hold, use, sell, improve, maintain, operate, own, manage, lease, or dispose of:

- (A) real and personal property of every kind and nature; and
- (B) any right and interest;

as necessary for the exercise of, or convenient or useful for the carrying out of, the commission's purposes under this chapter.

(5) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's purposes.

(6) Employ and fix the reasonable compensation of any employees and agents the commission considers necessary.

(7) Contract for special and temporary services and for professional assistance.

(8) Hold, use, administer, and expend money that is appropriated or transferred to the commission.

(9) Make contracts and leases for facilities and services.

(10) Act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.

(11) Enter into agreements or partnerships to do the following:

- (A) Assist in coordinating activities involving state and local government, business organizations, and nonprofit organizations.
- (B) Assist in the development and implementation of programs by other regional agencies and entities.

(12) Enter into coordinative arrangements with:

- (A) any unit of government in Indiana or an adjoining state;
- (B) an overlapping multicounty or interstate planning or development agency;
- (C) a state agency;
- (D) a federal agency;
- (E) a private entity; or
- (F) a minority business enterprise as defined by IC 4-13-16.5;

that are appropriate to the achievement of the commission's objectives or to address a common issue.

(13) Provide any administrative, management, or technical services to a unit of local government that requests the services. The local unit and the commission may enter into a contract concerning the commission's provision of administrative, management, or technical services and the cost to the local unit for the services.

(14) Conduct all necessary studies for the accomplishment of the

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commission's purpose.

(15) Publicize the commission's purposes, objectives, and findings, and distribute reports on those purposes, objectives, and findings.

(16) Provide recommendations to units of local government and to other public and private agencies.

(17) Make loans and issue notes as provided in section 19 of this chapter.

SECTION 5. IC 36-7-7.6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) The commission shall prepare and adopt an annual appropriation budget for its operation. The appropriation budget shall be apportioned to each participating county on a pro rata per capita basis. After adoption of the appropriation budget, any amount that does not exceed an amount for each participating county equal to seventy cents (\$0.70) per capita for each participating county shall be certified to the respective county auditor.

(b) A county's portion of the commission's appropriation budget may be paid from any of the following, as determined by the county fiscal body:

(1) Property tax revenue as provided in subsections (c) and (d).

(2) Any other local revenue, other than property tax revenue, received by the county, including local option income tax revenue under IC 6-3.5, excise tax revenue, riverboat admissions tax revenue, riverboat wagering tax revenue, riverboat incentive payments, and any funds received from the state that may be used for this purpose.

(c) The county auditor shall:

(1) advertise the amount of property taxes that the county fiscal body determines will be levied to pay the county's portion of the commission's appropriation budget, after the county fiscal body determines the amount of other local revenue that will be paid under subsection (b)(2); and

(2) establish the rate necessary to collect that property tax revenue;

in the same manner as for other county budgets.

~~(b)~~ **(d)** The tax levied under this section and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax collected by the county treasurer shall be transferred

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to the commission.

(c) (e) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(d) (f) After the budget is approved, amounts may not be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance for payment as provided by law.

(e) (g) Any two (2) of the following officers may allow claims:

- (1) Chairperson.
- (2) Vice chairperson.
- (3) Secretary.
- (4) Treasurer.

(f) (h) The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission, subject to applicable statutes and to procedures established by the commission.

(g) (i) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(h) (j) Any appropriated money remaining unexpended or unencumbered at the end of a year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of the amounts in the nonreverting cumulative fund, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be audited periodically by the state board of accounts, and those audits shall be paid for as provided by statute.

SECTION 6. IC 36-7-7.6-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 19. (a) The commission may adopt a resolution to make loans or issue notes to obtain money to pay current operating expenses of the commission in anticipation of the payment to the commission of the appropriation budget apportioned to participating counties under section 18 of this chapter.**



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(b) The terms and form of a loan or notes shall be set forth in the resolution. The resolution must specify:

- (1) subject to subsection (c), the term of the loan or notes;
- (2) the interest rate of the loan or notes;
- (3) the medium of payment of the loan or notes;
- (4) the place and manner of payment of the loan or notes;
- (5) the manner of execution of the loan or notes;
- (6) the terms of redemption of the loan or notes; and
- (7) the funds or sources of funds from which the loan or notes are payable, which may be any funds available to the commission.

(c) A loan or notes under this section must mature in the calendar year in which the loan is made or the notes are issued. The commission may use proceeds of the loan or notes only to pay current operating expenses of the commission in anticipation of the payment to the commission of the appropriation budget apportioned to participating counties under section 18 of this chapter.

(d) The total amount of all outstanding loans and notes under this section in a particular calendar year may not exceed the total amount of the appropriation budget apportioned to participating counties and to be paid to the commission under section 18 of this chapter for the calendar year.

(e) The loan contract or the notes must plainly state that the loan or notes:

- (1) are not an indebtedness of the state;
- (2) constitute a corporate obligation solely of the commission; and
- (3) are payable solely from:
 - (A) payments to the commission of the appropriation budget apportioned to participating counties under section 18 of this chapter for the calendar year; and
 - (B) any other revenues of the commission.

(f) This section contains full and complete authority for the making of loans and the issuance of notes by the commission under this section. No other procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the commission or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to make loans or issue notes under this section.

SECTION 7. [EFFECTIVE DECEMBER 31, 2007] (a) The terms of office of plan commission members appointed under

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IC 36-7-4-1210.5 before January 1, 2008, expire on December 31, 2007.

(b) This SECTION expires January 1, 2009.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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